

REMARKS:

The claims in the application are 1-15 and Claims 16-18 added by the present amendment..

Favorable consideration of the application as amended is respectfully requested.

The claims have been amended to change dependency of Claim 11, while Claims 16-18 added herein find clear support throughout the present application and drawings, e.g., in Fig. 1 and accompanying description on page 7 of the specification. Accordingly, the only outstanding issue is the prior art rejection of the claims.

More specifically, Claims 1-15 have been rejected under 35 U.S.C. §103 as obvious over GB 2,291,578 to McNamee et al in view of either U.S. Pat. Nos. 4,670,271 to Pasternak or 5,711,791 to Croker et al in paragraphs 2-27 of the Office Action. However, it is respectfully submitted the invention as recited in all pending claims herein is patentable over this combination of art for the following reasons (reference will be made to preferred embodiments of the present invention described in the present application).

The present invention is directed to a method of marking bakery products including the step of baking and applying, before baking, an ink of specific composition and sufficiently low surface tension to prevent beading when applied. As described in the background portion of the present application, ability to successfully mark baked goods improves over prior branding. However, as described, e.g., on pages 8-9 of the present application, printing using commercially-available (edible) ink

results in bleeding over the baked goods, e.g., biscuits, so detail of the thus-printed image is lost.

It has been surprisingly found by altering solvent, glycerol and water content, bleeding can be avoided, improving quality and appearance. It is believed currently-available edible inks bleed upon printing because the ink beads on initial application and then spreads while settling into the baked goods, thus causing the unwanted, undefined, disperse area of coloring or "bleeding." However, it has been surprisingly discovered increasing (ethanol) solvent and glycerol content of the printing ink lowers surface tension to prevent beading on application to the baked goods, thus preventing ultimate bleeding and providing a clear image on the thus-marked baked goods.

Fig. 2 of the present application illustrates comparison of biscuit dough stamped with the method of the present invention compared with a commercially-available ink using a hand stamp. As can be readily seen, the method according to the present invention provides a printed biscuit displaying a clear, finely-detailed image (A) while stamping with the commercially-available ink results in bleeding over the biscuit and loss of image detail (B).

Prior to the present invention, it was not possible to produce a clear, printed or marked baked good without scorching the image onto to bakery product adversely affecting the taste of the baked goods. In this regard, glycerol is required to help dry the dye pigment as thin film but nevertheless must be in sufficiently low concentration to prevent fouling of the printing head. Without glycerol, dye pigment dries as powder during baking.

The features of the presently-claimed invention together with the accompanying advantages attained thereby are neither disclosed nor suggested by the applied art, for the following reasons.

While McNamee et al might disclose a method of applying an edible marking substance to the surface of a product prior to baking, as even acknowledged by the Examiner in paragraphs 5 and 17 of the Office Action, McNamee et al fail to disclose ink components in any detail and most certainly fail to disclose the ink components recited in the presently-claimed invention.

Pasternak adds nothing to McNamee et al which would render obvious the claimed invention for the following reasons. While the edible inks of Pasternak are used for printing designs copied from a picture (particularly photographs) onto foodstuffs such as cakes, such foodstuffs are not baked after being printed with the edible ink. Additionally, the surface to which the ink is applied in Pasternak is a particular flexible image-imprintable foodstuff sheet as described, e.g., at columns 17-18 of Pasternak and quite different from bakery products. Importantly, the foodstuff to be imprinted according to Pasternak "must be improvised in its consistency in order to be individually and independently handled and processed prior to application to the surface of a cake, . . . [emphasis added]" (column 17, lines 41-44).

Accordingly, Pasternak explicitly teaches away from directly applying the ink to a bakery item and thereby suggests such a bakery item would provide an unsuitable surface for applying the ink. Therefore, if anything, the combination of Pasternak with McNamee et al actually teaches away from the presently-claimed method. Attention is

respectfully called to dependent Claims 16 and 17 added herein and which additionally specify the step of baking is carried out after the ink is applied directly to the dough being baked.

Croker et al also add nothing to McNamee et al which would render obvious the claimed invention for the following reasons. As with Pasternak, the ink disclosed in Croker et al is not applied to foodstuffs to be subsequently baked. Furthermore, as acknowledged by the Examiner in paragraph 23 of the Office Action, Croker et al fail to teach including glycerol in the disclosed ink formulations. However, the Examiner then asserts "One would choose glycerol for a lower surface tension. . ."

However, glycerol is explicitly including in the ink composition according to the method of the present invention because "Without the glycerol the dye pigment dries as a powder during baking. . .[emphasis added]"(page 9, lines 19-20). Use of glycerol or any similar substance is not contemplated in Croker et al because the products of Croker et al are not subject to baking. Therefore, one skilled in the art would not consider replacing the polyhydric alcohols of Croker et al with glycerol, as the problem of ink dye pigment drying during baking is not present in Croker et al.

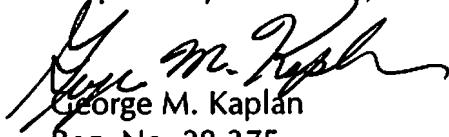
In conclusion, neither Pasternak nor Croker et al contain any teaching or suggestion which would indicate to one skilled in the art that the inks disclosed in these respective citations would be suitable for use on bakery products which will subsequently be baked. It is respectfully submitted an ink subjected to heat of an oven must be carefully selected to avoid degradation in color, appearance and taste. There is no suggestion in either Pasternak or Croker et al of selecting such inks for this

purpose and application, as these two references only use such inks for non-baked applications. Therefore, neither Pasternak nor Croker et al add anything to McNamee et al which would render the claimed invention obvious.

The remaining art of record has not been applied against the claims and will not be commented upon further at this time. Accordingly, in view of the forgoing amendment and accompanying remarks, it is respectfully submitted all claims pending herein are in condition for allowance. Please contact the undersigned attorney should there be any questions.

Early favorable action is earnestly solicited.

Respectfully submitted,



George M. Kaplan
Reg. No. 28,375
Attorney for Applicant(s)

DILWORTH & BARRESE, LLP
1000 Woodbury Road, Suite 405
Woodbury, New York 11797
Telephone: (516) 228-8484
Facsimile:(516) 228-8516